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Serial No. 10/662,599
Response to Official Action

In the Drawings

There are no amendments to the drawings.

Remarks

Applicant has amended Claim 19 and added new Claim 48. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application (See, pars. 41-44 & 82-84). Entry of the amendment and favorable consideration thereof is earnestly requested.

As amended, Claim 19 requires among other limitations, a medical video instrument generating an image stream for display on a touch screen. Applicant respectfully submits that these limitations are not disclosed in the '851 patent.

The '851 patent does not teach or suggest that the "magnetic programming head 218" generates an image signal for display on a touch screen (Col. 12, lines 54 – 56 & 66). The magnetic programming head is configured to assist in programming IMD 10, which may comprise "implantable cardiac pacemakers" (Col. 1, line 8; Col. 4, lines 66 – 67). Accordingly, the magnetic programming head does not generate an image stream as required by Claim 19 and therefore cannot anticipate Claim 19.

The '851 patent is directed to a portable programming apparatus for use with an implantable medical device, while Claim 19 recites a medical video instrument generating an image stream. There is no video stream or feed from the implantable medical device, nor can the IMD be modified to provide a video feed according to the '851 patent.

It is well settled that if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In the present case, Applicant respectfully submits that the intended purpose of the IMD taught in the '851 patent is to regulate a vital body function, while the programming apparatus 200 allows a user to program the IMD by means of programming head 218. Modification of the IMD to instead provide a video feed to a physician performing a surgical procedure would destroy the purpose of the IMD. Accordingly, such a modification according to presently pending Claim 19, cannot be obvious.

Additionally, the touch screen taught in the '851 patent is a programming interface for the user to program the IMD. Nowhere, does the '851 patent teach, disclose or suggest that a video stream is displayed on either the touch screen or any other screen.

It is respectfully submitted that claims 19 – 31 and 46 – 48, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wesley W. Whitmyer, Jr.', written over a horizontal line.

Wesley W. Whitmyer, Jr., Registration No. 33,558
Steven B. Simonis, Registration No. 54,449
Attorneys for Applicant
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155